

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 03-00236 SI

Plaintiff,

**ORDER REQUESTING FURTHER
BRIEFING FROM THE UNITED
STATES**

v.

NIKOLAI TEHIN,

Defendant.

On June 20, 2011, defendant Nikolai Tehin filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. Dkt. 187. In his motion, Tehin raised a number of arguments attacking his conviction. One of the grounds on which he attacks his conviction is that the promotional Money Laundering counts upon which he was convicted present a merger problem with the Mail Fraud counts upon which he was also convicted. *Id.* at 20-21 (*citing Santos v. Dias*, 533 U.S. 507 (2008)).


On November 7, 2011, the United States filed an opposition to Tehin's motion. Dkt. 196. The government did not address Tehin's merger argument. The government stated in a footnote that, "Tehin also challenges his money laundering convictions, but only on the ground that the unlawful activity gave rise to the laundered funds was an honest services fraud. Because the jury's verdict shows that Tehin also engaged in a money-or-property fraud, his attack on the money laundering counts should likewise be rejected." *Id.* at 15. However, Tehin challenged the money laundering on the separate basis that the money laundering charges merge with the mail count charges, without reference to his honest services argument.

The government is hereby ORDERED to provide supplemental briefing of no more than 5 pages

as to any opposition it has to Tehin's merger argument. The brief is due by **May 11, 2012**.

IT IS SO ORDERED.

Dated: April 16, 2012



SUSAN ILLSTON
United States District Judge